HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE G. V. SEETHAPATHY

WRIT PETITION No.11183 of 2006

Between:

Yaganti Chandraiah …Petitioner

AND

Chief Electoral Officer, General Administration (Elections) Department, Government of Andhra Pradesh, Secretariat, Hyderabad & others.

…Respondents

:: O R D E R ::

Counsel for the Petitioner : Sri Katta Janardhana Rao

Counsel for Respondent Nos.1 and 3 to 6 : Government Pleader for Panchayat Raj.

Counsel for Respondent No.2 : Sri V.V. Prabhakara Rao

25th JULY 2006

Per G.S.Singhvi, C.J.

In this petition, the petitioner has prayed for issue of a writ of mandamus to the respondents to include the names of genuine voters in the electoral rolls of Moogachintalapalem village, Bollapalli Mandal, Guntur District, who had submitted applications in Form No.VI in November, 2005. Another prayer made by the petitioner is to direct the respondents to delete the names of the

bogus voters from the electoral rolls.

Although the respondents have not filed counter affidavit despite the fact that copies of the writ petition were supplied to the counsel for respondents four weeks ago, after hearing learned counsel for the petitioner and perusing the record, we are convinced that relief in terms of the prayer made in the writ petition cannot be granted.

It is not the petitioner's case that his name has been wrongfully excluded from the electoral rolls of Village Moogachintalapalem. Rather, the positive case set up by him is that he is a voter of the said village. His grievance is that names of about 29 individuals who were eligible to be enrolled as voters in the electoral rolls of Moogachintalapalem Village and had submitted application forms in November, 2005, have not been included in the electoral rolls and, on that account, they will be deprived of the right to exercise franchise in the forthcoming elections. According to the petitioner, this action of respondent No.4 is violative of the provisions contained in Sections 22 and 23 of the Representation of the People Act, 1950 read with Registration of Electors Rules, 1960 and Section 11 of the Andhra Pradesh Panchayat Raj Act, 1994 (for short 'the 1994 Act') read with Andhra Pradesh Panchayat Raj (Preparation and Publication of Electoral Rolls) Rules, 2000 (for short, 'the 2000 Rules'). The petitioner has also averred that respondent Nos.4 and 5 are not taking any action for deletion of bogus voters from the electoral rolls of Village Moogachintalapalem.

In the context of the averments contained in the affidavit of the petitioner, we enquired from the learned counsel whether any of the 29 persons, whose names are said to have been excluded from the electoral rolls submitted application or objection petition before the Electoral Registration Officer in terms of Section 11 of

the 1994 Act after 8-5-2006 i.e. date on which the District Panchayat Officer published the electoral roll of the Gram Panchayat in furtherance of authorisation given to him by the State Election Commission vide Notification dated 1-5-2006 issued under Article 243-K(1) of the Constitution of India read with Section 11 of the 1994 Act, but the learned counsel could not give any reply.

In view of the above and also in view of the fact that the petitioner has not placed any material on the record of the writ petition to show that 29 persons, whose names are said to have been arbitrarily left out from the electoral rolls of Moogachintalapalem Village, did make application in terms of proviso to Section 11 of the 1994 Act read with Rule 6 of the 2000 Rules, it is not possible to entertain the omnibus prayer made by the petitioner for issue of a direction to the respondents to include the names of unknown number of persons in the electoral rolls of Village Moogachintalapalem.

The petitioner's prayer for exclusion of the names of ineligible persons from the electoral rolls is liable to be rejected on the short ground that none of those persons has been impleaded as party respondent to the writ petition and without hearing them, the Court cannot pass an order which will adversely affect their right to exercise franchise in the forthcoming elections. It is well settled that in exercise of power under Article 226 of the Constitution of India, High Court cannot issue any direction, order or writ including the writ in the nature of mandamus adversely affecting a person who is not a party to the petition.

For the reasons stated above, the writ petition is dismissed.

G.S.SINGHVI, C.J.

25th July, 2006.

G. V. SEETHAPATHY, J.

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